

## THE JUST RETURN

Writ of Mandate Against State Board of Examiners.

## TWENTY-SIX PETIT JURORS

SUBPOENAED FOR SERVICE IN THE CRIMINAL COURT.

Felix Perry Sentenced to 2½ Years and James A. Thompson to 3½ Years For Burglary—Question of Ownership of 500 Shares of Mountain Ice Company Stock.

Judge Cherry yesterday handed down his decision on the demurrer in the case of J. C. Thompson vs. the state board of land commissioners, in which the plaintiff sought to obtain a writ of mandate to compel the board to allow his claim of \$38.26, money illegally received by the board as rent for school lands, which, by an act of the legislature of 1892 the county commissioners were authorized to lease. Afterward the supreme court declared the act void and to be unconstitutional, and the legislature made provision for the return of the money the state had received. It then appeared that the state received only 62½ per cent of the money paid by the lessee, the other 37½ per cent being retained by the county. The court overruled the demurrer and ordered the writ to issue, compelling the board to allow the claim.

The petition sets out that in the year 1892 one Robert Reeder paid the county clerk of Cache County \$192.50 for a lease of certain school lands, which, by an act of the legislature of 1892 the county commissioners were authorized to lease. Afterward the supreme court declared the act void and to be unconstitutional, and the legislature made provision for the return of the money the state had received. It then appeared that the state received only 62½ per cent of the money paid by the lessee, the other 37½ per cent being retained by the county. The court overruled the demurrer and ordered the writ to issue, compelling the board to allow the claim.

"It seems evident that the spirit and intention of the law of 1892 was to make the persons who, by the act of the state, had been induced to part with their money and had failed to receive the benefit held out. Suppose the county officials had neglected or refused to turn over to the territorial treasurer the entire sum so received; would it be contended that the state should have paid the citizen who paid his money in good faith?"

"The state committed the wrong in the first place by passing an illegal law, and it should not be allowed to benefit from its own wrong."

As to the discretionary power to be exercised by the board, Judge Cherry finds that it is limited to "auditing and allowing just claims, etc.," and that the powers of the board are ministerial and not judicial.

## WHO OWNS THE STOCK?

Charles G. Lange or His Wife, Albertina.

Charles G. Lange has filed suit against Sheriff Lowe, George A. Lowe and Albertina Lange, praying that an order issue restraining the sheriff from selling under execution 500 shares of the capital stock of the Mountain Ice company.

It is alleged in the complaint that on July 22, 1895, George A. Lowe obtained a judgment in the district court for \$235.68 against the Mountain Ice & Cold Storage company, in which case among whom was Albertina Lange, the wife of this plaintiff.

It is then alleged that on November 2, 1897, for failure of commencing an appeal from the judgment, the court in its business this plaintiff placed in the name of his wife to hold in trust for him 500 shares of stock of the Mountain Ice company, and that to satisfy the judgment held by Lowe the sheriff has levied upon 250 shares of plaintiff's 500 shares of the Mountain Ice company, and will sell the same as the property of Mrs. Lange, whereas plaintiff prays for an injunction preventing the sale of the same.

A temporary restraining order was issued, made returnable September 10, before Judge Hills.

## PETIT JURORS.

Subpoenaed For Service in the Criminal Court.

A venire for 26 petit jurors was yesterday issued by Judge Cherry for service in the criminal division of the district court at the September term. The venire was made returnable Sept. 13 at 10 a.m. The following are the names drawn, O. M. Sorenson, Philip Finnegan, George H. Sims, Reuben P. Miller, Seward David, Louis Simon, Orlaf Hagen, Joseph Carson, Charles W. Platter, J. W. Stanton, N. M. Brigham, John Whalen, Charles B. Tuckwell, A. J. Wyatt, John Quirles, Thomas Oakley, Charles R. Savane, W. Strickley, W. Wiseman, Joseph F. King, Silas T. Lake, George H. Naylor, Louis H. Farnsworth, H. Evans, E. D. Swan, Thomas Cook.

## BURGLARS SENTENCED.

One Two and a Half and the Other Three and a Half Years.

Felix Parry, who heretofore pleaded guilty to burglary, was brought before Judge Norrell yesterday for sentence, and his honor ordered that he be imprisoned in the state prison for two and a half years. Parry broke into the store of S. P. Neve and stole goods to the value of \$75.

James A. Thompson, another one who pleaded guilty to burglary a few days ago, was sentenced to three and a half years in the state prison. Thompson broke into Fred Walker's residence and stole a pistol valued at \$25.

## Contested Mining Ground.

Daniel Eyer yesterday filed suit against John R. Taylor and Nellie Fulton.

The plaintiff alleges that he is the owner of the Vesuvius mining claims Nos. 1 and 2, in the West Mountain mining district, and that the defendants unlawfully entered upon the same and extracted and carried away ores therefrom to the plaintiff's damage to the sum of \$1,000, for which judgment is prayed. Plaintiff also asks that he be appointed receiver of the claims and that the defendants be restrained, pending the trial of the suit, from taking ores therefrom.

## Ho Alleges Desertion.

Chester Harper has filed suit for divorce from Mary Julia Harper.

The marriage took place at Logan on December 3, 1895, and plaintiff alleges that on April 1, 1897, the defendant deserted and abandoned the plaintiff without cause and continues to live separate and apart from him.

## Wants Decree Modified.

In the matter of the divorce suit of Daniel B. Carson vs. Daisy Carson, a petition of the defendant for a modification of the decree heretofore granted so as to vest the title of certain real estate valued at \$200 at Richfield in the defendant Mrs. Carson, was presented.

The Royal is the highest grade baking powder known. Actual tests show it goes one-third further than any other brand.



ROYAL BAKING POWDER CO., NEW YORK.

and October 8 set as time for hearing on the same.

## Short Orders.

Samuel McIntyre vs. Ajax Mining company; case continued at defendant's cost.

O. C. Brown vs. Joseph Elserman; motion to strike out argued and submitted.

Frank Sharley vs. A. L. Potheringham; demurrer overruled and ten days allowed to answer.

William D. Currier vs. the White & Sons Co., et al.; judgment entered on defendant's motion.

W. S. McCormick vs. Queen of Sheba Mining company; demurrer argued and overruled and 15 days allowed to answer.

John S. Bowers vs. Adella M. Hoagland et al.; judgment and decree of foreclosure entered for the plaintiff for \$145.

Estate of Mary White Elvers, deceased; order of settlement of administrator's final account made.

Estate and guardianship of Derwood F. Devlin, deceased; Benjamin Blake appointed guardian on filing bond in the sum of \$2,000.

The city's health.

## A CONSIDERABLE INCREASE IN THE DEATH RATE.

Many More Typhoid Fever Cases Than Last Year—Causes of Death—Contagious Diseases—Births.

Health Department Clerk Pollard yesterday completed his report for the month of August. It shows that the deaths numbered 69 against 44 for the same month last year, making the death rate 10.10 per cent, as compared with 7.24 for August, 1897.

The deaths from the different causes are classified as follows:

Zymotic—cholera infantum, 8; erysipelas, 1; typhoid fever, 4; whooping cough, 2.

Constitutional—Asthma, 2; rheumatism, 1; phthisis pulmonalis, 2.

Nervous—Convulsions, 1; cerebral congestion, 1; cerebral hemorrhage, 1; cerebro-spinal meningitis, 1; disease of the brain, 1.

There were five deaths from circulatory causes, three from respiratory, two from digestive, eight from genito-urinary, one accident, one opium poisoning and three from old age.

The report shows a decided increase in the number of typhoid fever cases, there being at present 37 in the city and several in the outskirts. Whooping cough is also spreading some. There are at present 13 cases of this malady known to the health authorities.

There are at present 23 cases of closed shows 24 births, 14 males and 10 females. The deaths were 13 in number, four males and nine females. Six new cases of typhoid fever and eight new cases of whooping cough were reported.

Shiloh's Consumption Cure cures where others fail. It is the best remedy for Cough, Croup, and Hoarse, and no home should be without it. Pleasant to take and goes straight to the source of the trouble. Sold by Nelden-Judson and other druggists.

U. S. is a good, strong and reliable Baking Powder, sold by all grocers at 25¢ a pound.

## CALL OF DEMOCRATIC COUNTY CONVENTION FOR UTAH CO.

At a meeting of the Democratic county central committee of Utah county held in Provo City on the 15th day of August, 1898, the following resolutions were adopted:

Resolved, That the Democratic county central committee be called to convene at the county seat of Utah county, on the 15th day of September, 1898, at the hour of 10 o'clock a.m., for the purpose of nominating delegates to the Democratic state convention to be held at Salt Lake City on September 12, 1898.

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## ALLEGED ATTEMPT TO RAPE

FREDERICK SHACH, AGED 60, SO ACCUSED.

Fifteen-year-old Carrie Jensen His Alleged Victim—Parties Reside at Mill Creek and Tell Conflicting Stories.

Frederick Shach, a man of about 60 years of age, residing at Mill Creek, was arrested yesterday on the charge of committing an assault upon 15-year-old Carrie Jensen with intent to commit rape. The story told by the girl and her father to the county attorney in substance is that Shach is engaged in the business of keeping bees and lives alone at Mill Creek. Carrie Jensen, her father and brother were all employed by Shach, and Carrie's duties were to attend to the house and cooking. She and her brother usually slept in the house, while Shach, during the winter weather, slept in a barn. On July 25 the weather was quite sultry, and the brother, preferring to sleep out of doors, left Carrie alone in the little house. About 11 o'clock, after she had retired for the night, she says, the old man, Shach, came to her chamber and then, she claims, committed the assault, recalcitrant plot of her screams, however, frightened him away before he accomplished his purpose. She further says he frequently threatened her to marry him, but she would have nothing to do with him in that way, and then he threatened that if he could not marry her he would kill her. She would in another assault she left and went home to her mother.

The old man denies the accusation as to the assault or any impropriety. He says the girl's father was in his employment until Friday, when he was discharged, and that the accusation made for the purpose of extorting money from him. He, however, admitted that he had made the girl pregnant, and that she was now carrying a child, which, he says, he bought for \$15, second hand. He claims the girl was not pleased with the watch because it cost only \$15. He also made the extraordinary statement that he had bought Carrie from her father for 20 bars of fruit.

The girl's father stated in explanation of the fact that he had allowed nearly six weeks to elapse before any complaint was made against Shach, that he intended to have the matter brought before the church authorities and avoid a scandal as far as possible, but that after talking the matter over with his bishop, he came to the conclusion that he could not have a fair hearing before the church officials.

The girl's mother, and Shach was arrested by Deputy Sheriff McLehland and taken before Justice McKinnon, who made the preliminary hearing for Wednesday next at 10 o'clock. In the meantime the old man was released on \$200 bond.

He Stuck to What He Had Said.

Much as we hear about the free-and-equal spirit of society in more primitive days, the fact of the matter is that old-fashioned people stood rather more in awe of their elders than we do today. The following story, printed many years ago in the Vermont Record, illustrates this statement on the principle that the exception proves the rule:

In the early settlement of Vermont there lived in Chelsea, a respectable old farmer, familiarly known as "Uncle Mike." He was very earnest and pious in his assertions, and a little inclined to stamp and roar when he was excited. One day in the spring, when the snow was soft and slummy, he was traveling with his oxen and was upon a road which was a mere cartway built through a complete quagmire, and hardly wide enough for a single team.

The road was for the most part a slick and icy surface, and he was a sleazy and a little ignorant of the peculiar condition of the road, began to rein out with a suddenness which was very startling to the young man who was driving the team. "You can't get by; hold on till we get to them bars, then I'll turn out." The stranger, who was a young man, looked at him with a puzzled expression, and at once sunk to their girths in the soft snow and mire, nor was it without difficulty that they were extricated. But so soon as they were extricated, the old man, who was a very good natured fellow, began to laugh and to say to the young man, "You can't get by; hold on till we get to them bars, then I'll turn out." The stranger, who was a young man, looked at him with a puzzled expression, and at